

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ANTHONY WHEELER,

Plaintiff,

V.

SALVADORE GODINEZ, et al.,

Defendants.

Civil Case No. 13-964-JPG-PMF

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

Before the Court is plaintiff Anthony Wheeler's motion for a partial declaratory judgment (Doc. No. 6). Wheeler is proceeding against ten defendants on five claims regarding the conditions of a period of temporary confinement at Menard Correctional Center in August and September, 2012. Four of Wheeler's claims were dismissed during the screening process (Doc. No. 10). Wheeler seeks a declaration that various acts were motivated by retaliation and/or deprived him of a liberty interest without due process of law. This case is currently in the pleading stage. Answers are not yet due.

The Declaratory Judgment Act confers on federal courts unique and substantial discretion in deciding whether to declare the rights of the litigants. *MedImmune v. Genentech, Inc.*, 549 U.S. 118, 136 (2007). Here, Wheeler seeks declaratory relief regarding claims that have been dismissed. There has been no determination of the facts or liability on any of Wheeler's claims. Accordingly, declaratory relief is not available at this time.

IT IS RECOMMENDED that Wheeler's motion for partial declaratory judgment (Doc. No. 6) be DENIED.

SUBMITTED: January 21, 2014 .

s/Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE